

FILED - MQ

November 6, 2020 10:06 AM

CLERK OF COURT

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY: sik SCANNED BY: SA-11-2020

AO 243 (Rev. 09/17)

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CO
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court	District Western District of Michigan
Name (under which you were convicted): Jesse Ray Hamilton	Docket or Case No.: 2:19-CR-01
Place of Confinement: Oxford FCI	Prisoner No.: 22456-040
UNITED STATES OF AMERICA	Movant (include name under which convicted) Jesse Ray Hamilton

MOTION

1. (a) Name and location of court which entered the judgment of conviction you are challenging:

Marquette Mi, 49855**2:20-cv-227**

Robert J. Jonker - U.S. District Judge

(b) Criminal docket or case number (if you know): **2:19-CR-01**

2. (a) Date of the judgment of conviction (if you know): **8-9-2019**

(b) Date of sentencing: **11-5-2019**

3. Length of sentence: **150**

4. Nature of crime (all counts):

Dismissed
Conspiracy to distribute
Conspiracy to possess
Controlled Substance - sell

5. (a) What was your plea? (Check one)

(I) Not guilty (2) Guilty (3) Nolo contendere (no contest)

6. (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

Conspiracy Distribute

6. If you went to trial, what kind of trial did you have? (Check one)

Jury Judge only

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?

Yes No

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8. Did you appeal from the judgment of conviction? Yes No
9. If you did appeal, answer the following:
- (a) Name of court: _____
 - (b) Docket or case number (if you know): _____
 - (c) Result: _____
 - (d) Date of result (if you know): _____
 - (e) Citation to the case (if you know): _____
 - (f) Grounds raised: _____

-
- (g) Did you file a petition for certiorari in the United States Supreme Court? Yes No
- If "Yes," answer the following:
- (1) Docket or case number (if you know): _____
 - (2) Result: _____

 - (3) Date of result (if you know): _____
 - (4) Citation to the case (if you know): _____
 - (5) Grounds raised: _____

-
10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes No

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: _____
- (2) Docket or case number (if you know): _____
- (3) Date of filing (if you know): _____

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- (4) Nature of the proceeding: _____
(5) Grounds raised: _____

- (6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes No

- (7) Result: _____

- (8) Date of result (if you know): _____

- (b) If you filed any second motion, petition, or application, give the same information:

- (1) Name of court: _____

- (2) Docket of case number (if you know): _____

- (3) Date of filing (if you know): _____

- (4) Nature of the proceeding: _____

- (5) Grounds raised: _____

- (6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes No

- (7) Result: _____

- (8) Date of result (if you know): _____

- (c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

- (1) First petition: Yes No
(2) Second petition: Yes No

- (d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE:

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

*4th d amendment constitutional right
was violated. When officer's entered
my house and obtained evidence.
without a valid search warrant.
Excuted: Warrant before
Judge or Mag: Singed it..*

(b) Direct Appeal of Ground One:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

- (2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- (3) Did you receive a hearing on your motion, petition, or application?

Yes No

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(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this

issue: Because lawyer told me
that as long as officer's got the warrant
after the fact that. They would be
cleared of that.

GROUND TWO:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

6th amendment was violated.
Due to fact wanted to go to trial,
lawyer stated that would be the
worst mistake of my life..

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

Told lawyer I wanted to take to trial, she told me it would be the worst mistake of my life: if I did

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GROUND THREE:

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

My due process rights were violated. When I asked lawyer to file motions on my behalf and she did not...

(b) Direct Appeal of Ground Three:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

- (2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- (3) Did you receive a hearing on your motion, petition, or application?

Yes No

- (4) Did you appeal from the denial of your motion, petition, or application?

Yes No

- (5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes No

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(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

*my lawyer gave me bad advice
and ineffective assitant Counsel,*

GROUND FOUR: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If you answer to Question (c)(1) is "Yes," state:

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Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

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14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

- (a) At the preliminary hearing:

Beth LaCosse

- (b) At the arraignment and plea:

Same

- (c) At the trial:

N/A

- (d) At sentencing:

Same

- (e) On appeal:

- (f) In any post-conviction proceeding:

N/A

- (g) On appeal from any ruling against you in a post-conviction proceeding:

N/A

16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes No

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No

- (a) If so, give name and location of court that imposed the other sentence you will serve in the future:

- (b) Give the date the other sentence was imposed:

N/A

- (c) Give the length of the other sentence:

N/A

- (d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes No

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18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

N/A

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

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Therefore, movant asks that the Court grant the following relief:

my Constitutional rights to a fair trial

or any other relief to which movant may be entitled.

4th amendment rights. Not to
be violated..

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on

11-3-2020

(month, date, year)

Executed (signed) on

June 11-3-2020
(date)

Jesse H.
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.



Jesse Spence #29456-54C
Federal Correctional Institution /
DO Date 1/900
On Final W/ 5-3952